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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/925,703	09/09/1997	DUANE LE ALLEN	MICL:024(97-	5929

7590 07/21/2004

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EXAMINER

OPIE, GEORGE L

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	08/925,703		Duane Le Allen	
	Examiner		Art Unit	
	George L. Opie		2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-42, 44-49 and 51 is/are pending in the application.
- 4a) Of the above claim(s) ☐ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ☐ is/are allowed.
- 6) ☒ Claim(s) 34-42, 44-49 and 51 is/are rejected.
- 7) ☐ Claim(s) ☐ is/are objected to.
- 8) ☐ Claim(s) ☐ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ☐ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ☐ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ☐.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- | | |
|--|--|
| 14) <input type="checkbox"/> Notice of References Cited (PTO-892) | 17) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <input type="checkbox"/> . |
| 15) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 18) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 16) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <input type="checkbox"/> . | 19) <input type="checkbox"/> Other: <input type="checkbox"/> . |

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DETAILED ACTION

This Office Action is responsive to the 15 April 2004 Amendment in which claims 34, 36, 40-42 and 48-49 were amended, and claims 43 and 50 were cancelled.

1. Request for copy of Applicant's response on floppy disk:

Please help expedite the prosecution of this application by including, along with your amendment response in paper form, an electronic file copy in WordPerfect, Microsoft Word, or in ASCII text format on a 3½ inch IBM format floppy disk.

Please include all pending claims along with your responsive remarks. Only the paper copy will be entered -- your floppy disk file will be considered a duplicate copy. Signatures are not required on the disk copy. The floppy disk copy is not mandatory; however, it will help expedite the processing of your application. Your cooperation is appreciated.

2. The U.S. Patents used in the art rejections below have been provided as text documents which correspond to the U.S. Patents. The relevant portions of the text documents are cited according to page and line numbers in the art rejections below. For the convenience of Applicant, the cited sections are highlighted in the *text documents*. Consistent with Office procedure, the U.S. Patents corresponding to the *text documents* are also included with this action.

3. Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 34-42, 44-49 and 51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art (APA) – background of the Application in view of Wold et al. (U.S. Patent 5,640,562) and "Microsoft releases Windows 95 service-pack" M2 Communications Presswire, 14 February 1996.

As to claim 34, the APA p4 l8-17) teaches a method comprising:

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providing an operating system package (OS) that includes a first configuration file (includes a configuration file) the operating system package comprising a standalone package to run a computer system (package through which the user and the computer interface) without requiring additional software (OS installed ... by the user after reconfiguring the system ... generally performed using installation software provided on a CD-ROM) and the first configuration file including information used by the operating system package to install first drivers (drivers) for a first set of devices (devices ... associated with the computer) on a computer. The APA does not explicitly disclose the additional limitations detailed below.

Wold teaches providing a second configuration file external to the operating system package (ly2install script 135, p5 9-47) the second configuration file including information to direct the installation of a second driver for a second device (install new ... device specific drivers, p3 4-20) installing the second driver on the computer based on the information in the second configuration file (ly2install script which provides ... configuration of the system peripherals, p5 9-47) and

installing the operating system package (install the platform specific kernel 127 ... onto the system 100, p5 9-47) on the computer based on the information in the second configuration file (ly2install script 1135 which provides information that the installation routine 131 uses to determine which files to install on the system 100, Id.).

It would have been obvious to combine Wold's teachings with the APA because the new installation scripts would automate upgrading, OS fixes, and setting-up of the latest advances in hardware/technology. The APA as modified by Wold does not explicitly disclose the patching errors in the first configuration file with information in the second configuration file.

Microsoft Win95 ServicePack Release teaches providing a second configuration file external to the operating system package (ServicePack) the second configuration file providing information for patching errors in the first configuration file (Service Pack includes any fixes that were made to Windows 95). It would have been obvious to combine the Microsoft Win95 ServicePack teachings with the APA as modified because the ServicePack automates upgrading, OS fixes, and installation of additional drivers for new hardware. The ServicePack teachings describe the second configuration file supplying "fixes, new components, tools and third-party device drivers", and thus it would be advantageous to employ such a scheme to provide the user a "convenient" and "easy" means of updating/maintaining the system.

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As to claim 35, the APA (background p3 l14 – p4 l2) teaches executing a setup program (software) of the operating system package (OS) to install the second driver (installs whatever drivers the device needs). It would have been obvious to combine the installation execution teachings with the APA as modified because the setup program that executes the appropriate OS configuration functions assist the user to complete the installation by simply running the setup program so that the device is fully operational.

As to claim 36, "Official Notice" is taken that the addition of a second device that is not included in the first set of devices for driver installation is well known in the art (MPEP2144.03). It would have been obvious to combine new device installation with the system of the APA as modified because a user may need to add a component on to the machine but the drivers for that new component are not present on the machine, so the second file provides a mechanism for adding new drivers to the system.

As to claim 37, "Official Notice" is taken that installing applications after the second driver and the operating system are installed is well known in the art. It would have been obvious to have the application loading follow the installation of the OS and drivers integrate with the APA as modified because the installation of application programs are dependent on the configuration of the system, and customary setup routines enable efficient installation of a user's software package, including all of the programs that constitute the system applications.

As to claim 38, "Official Notice" is taken that determining one procedure from a plurality of options is well known in the art. (MPEP 2144.03). In the interest of flexibility and efficiency, it would be important to incorporate a mechanism for choosing an installation procedure from a variety of possibilities, and it would have been obvious to combine this option determination principle with the APA as modified, thereby furnishing the installation facility with a feature for determining one procedure for installation from a number of alternatives in order that the setup procedure suits the user's needs.

As to claims 39-40, "Official Notice" is taken that the dynamic identification of devices is automated or user-driven is well known in the art (MPEP2144.03). It would have been obvious to combine the automated/user-driven system of dynamic identification of devices with the APA as modified because the dynamic identification would help set-up the peripheral component configuration for the user with the automated/direct-driven teaching that provides enhanced installation capabilities, i.e. a user-friendly utility that powerfully manages the low-level details requisite in installation of new hardware and system upgrades.

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As to claim 41, "Official Notice" is taken that an ISA, PCI, SCSI, and an IDE device are component standards which are well known in the art. (MPEP 2144.03). It would have been obvious to combine components from the recited respective device standards with the APA as modified because the adaptations for the variety of protocols enable automated management, maintenance, and installation for machines equipped with any of the recited device standard components.

As to claim 42, "Official Notice" is taken that a display device, a sound device, a modem, and a controller are components that need respective drivers for the system to function properly is well known in the art (MPEP 2144.03). It would have been obvious to combine the peripheral devices with the APA as modified because the utilization of these common computing interfaces facilitates a user's ability to enjoy the maximum extent of the machines communication services.

As to claims 44-49, note the rejections of claims 34, 37-39, and 41-42 respectively. Claims 44-49 are the same as claims 34, 37-39, and 41-42, except claims 44-49 are computer program product claims and claims 34, 37-39, and 41-42 are method claims.

As to claim 51, the APA teaches that the device drivers are typically installed during the OS installation, background p4 ln 15-17. Accordingly, the typical scenario would have setup the second device's driver contemporaneously with the OS installation. It would have been obvious to combine this packaging setup with the APA as modified because the installation of the driver for the second (or any other) device during the OS setup would save time and eliminate the need for the user to perform the software configuration for the device.

5. Claims 34-42, 44-49 and 51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art (APA) – background of the Application in view of Lipe et al. (U.S. Patent 5,748,980) and "Microsoft releases Windows 95 service-pack" M2 Communications Presswire, 14 February 1996.

As to claim 34, the APA p4 l8-17) teaches a method comprising: providing an operating system package (OS) that includes a first configuration file (includes a configuration file) the operating system package comprising a standalone package to run a computer system (package through which the user and the computer interface) without requiring additional software (OS installed ... by the user after reconfiguring the system ... generally performed using installation software provided on a CD-ROM) and the first configuration file including information used by the operating system package to install first drivers (drivers) for a first set of devices (devices ... associated with the

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computer) on a computer. The APA does not explicitly disclose the additional limitations detailed below.

Lipe teaches providing a second configuration file external to the operating system package (configuration manager 158, p24 55 – p25 13) the second configuration file including information to direct the installation of a second driver for a second device (install devices 20, Id.)

installing the second driver on the computer (drivers for the devices are loaded, p4 52 – p5 8) based on the information in the second configuration file (works in conjunction with the configuration manager to install devices, p24 55 – p25 13) and installing the operating system package on the computer (loading the operating system, p20 20-29) based on the information in the second configuration file (configuration process ... steps 66 and 68, Id.).

It would have been obvious to combine Lipe's teachings with the APA because the configuration manager enables an automated/simplified setup of the system with user-friendly management. The APA as modified by Lipe does not explicitly disclose the patching errors in the first configuration file with information in the second configuration file.

Microsoft Win95 ServicePack Release teaches providing a second configuration file external to the operating system package (ServicePack) the second configuration file providing information for patching errors in the first configuration file (Service Pack includes any fixes that were made to Windows 95). It would have been obvious to combine the Microsoft Win95 ServicePack teachings with the APA as modified because the ServicePack automates upgrading, OS fixes, and installation of additional drivers for new hardware. The ServicePack teachings describe the second configuration file supplying "fixes, new components, tools and third-party device drivers", and thus it would be advantageous to employ such a scheme to provide the user a "convenient" and "easy" means of updating/maintaining the system.

As to claim 35, the APA (background p3 114 – p4 12) teaches executing a setup program (software) of the operating system package (OS) to install the second driver (installs whatever drivers the device needs). It would have been obvious to combine the installation execution teachings with the APA as modified because the setup program that executes the appropriate OS configuration functions assist the user to complete the installation by simply running the setup program so that the device is fully operational.

As to claim 36, Lipe teaches "[t]he present invention enables a user of a computer to install a new device", p4 21-30 which corresponds to the second device is not included in the first set of devices.

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As to claim 37, Lipe teaches "customization of computer operations ... handling of application programs", p20 20-29, and from this, one skilled in the art would have provided for installing applications after the second driver and the operating system are installed.

As to claim 38, "Official Notice" is taken that determining one procedure from a plurality of options is well known in the art. (MPEP 2144.03). In the interest of flexibility and efficiency, it would be important to incorporate a mechanism for choosing an installation procedure from a variety of possibilities, and it would have been obvious to combine this option determination principle with the APA as modified, thereby furnishing the installation facility with a feature for determining one procedure for installation from a number of alternatives in order that the setup procedure suits the user's needs.

As to claims 39-40, Lipe (p18 12-26) teaches the second device (one of the devices 20) is identified dynamically (detected ... automatically). From Lipe's aforementioned teachings, one skilled in the art would have provided the dynamic identification to be one of automated and user-driven.

As to claim 41, "Official Notice" is taken that an ISA, PCI, SCSI, and an IDE device are component standards which are well known in the art. (MPEP 2144.03). It would have been obvious to combine components from the recited respective device standards with the APA/ServicePack system because the adaptations for the variety of protocols enable automated management, maintenance, and installation for machines equipped with any of the recited device standard components.

As to claim 42, "Official Notice" is taken that a display device, a sound device, a modem, and a controller are components that need respective drivers for the system to function properly is well known in the art (MPEP 2144.03). It would have been obvious to combine the peripheral devices with the APA/ServicePack system because the utilization of these common computing interfaces facilitates a user's ability to enjoy the maximum extent of the machines communication services.

As to claims 44-49, note the rejections of claims 34, 37-39, and 41-42 respectively. Claims 44-49 are the same as claims 34, 37-39, and 41-42, except claims 44-49 are computer program product claims and claims 34, 37-39, and 41-42 are method claims.

As to claim 51, the APA teaches that the device drivers are typically installed during the OS installation, background p4 ln 15-17. Accordingly, the typical scenario would have setup the second device's driver contemporaneously with

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the OS installation. It would have been obvious to combine this packaging setup with the APA/ServicePack system because the installation of the driver for the second (or any other) device during the OS setup would save time and eliminate the need for the user to perform the software configuration for the device.

6. Response to Applicant's Arguments:

Pursuant to Applicant's challenge under MPEP §2144.03 in connection with claims 34 and 44, the Office cites the "Microsoft releases Windows 95 service-pack" M2 Communications Presswire, 14 February 1996.

Regarding claims 36-42, 44-49 and 51, Applicant fails to adequately traverse the "Official Notice" finding. See MPEP §2144.03 C. "To adequately traverse such a finding, an applicant must specifically point out ... why the noticed fact is not considered to be common knowledge or well-known in the art." Applicant's traverse (claims 36-42, 44-49 and 51) fails to specifically state why the noticed fact (claimed limitation) is not well known in the prior art.

In considering the claimed OS package and the configuration files, it is noted that Applicant uses terminology that has broad meaning in the art, and thus requires a broad interpretation of the claims in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The recited OS installation is clearly subject to a broad interpretation, as detailed in the rejections maintained above. The Examiner has a *duty* and *responsibility* to the public and to Applicant to interpret the claims as *broadly as reasonably possible* during prosecution (see *In re Prater*, 56 CCPA 1381, 415 F.2d 1393, 162 USPQ 541 (1969)). Applicant should set forth claims in language that clearly, distinctly, unambiguously and uniquely define the invention.

In light of the references of record, the system of configuration files for OS installation, updating and patching, in the manner recited in the pending claims does not constitute a nonobvious improvement over the prior art.

7. THIS ACTION IS MADE FINAL.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE

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ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Contact Information:

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private-PAIR or Public-PAIR.

Status information for unpublished applications is available through Private-PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

- ☐ All responses sent by U.S. Mail should be mailed to:
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

- ☐ Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist). All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses directly to the Examiner.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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- ☐ Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at **(703) 305-9600**.
- ☐ Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie at (703) 308-9120 or via e-mail at *George.Opie@uspto.gov*. Internet e-mail should not be used where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the Applicant. Sensitive data includes confidential information related to patent applications.


ST. JOHN COURTENAY III
PRIMARY EXAMINER